

**NEW YORK STATE DEPARTMENT OF STATE  
DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION  
TECHNICAL SUBCOMMITTEE - GREEN CONSTRUCTION CODE**

**MINUTES of meeting of August 2, 2012**

Minutes of initial meeting of the technical subcommittee reviewing the 2012 International Green Construction Code for adoption by New York State, commencing at 10:00 a.m. on Thursday, August 2, 2012 at the Albany office of NYSERDA, 17 Columbia Circle, Albany, NY, via videoconferencing at the NYSERDA NYC office (10th Floor, Suite 1006 485 Seventh Avenue - New York, NY: 212-971-5342), and via teleconferencing.

**Present:**

Subcommittee members:

Michael P. Burnetter, P.E., Chairman GCC Technical Subcommittee,  
John Barrows  
James R. Burton, by phone  
Tina Carton (by phone)  
Olivia Cellini, P.E.  
Marilyn Kaplan, R.A.  
Laurie Kerr, AIA, LEED AP,  
Miriam McGiver, P.E.  
Erin M. Tobin  
Adrian Tuluca, RA, LEED BD+C,

**Special Guest:** Ronald Piester, RA (Director of DCEA)

**Acronyms:** Following is a list of Acronyms that attendees used during the meeting, and which are in these minutes.

CC	Codes Council of NYS (which votes to implement NYS building codes)
DCEA	Division of Code Enforcement and Administration
FEMA	Federal Emergency Management Agency
GCC	draft Green Construction Code of New York State
ICC	International Code Council
IgCC	International Green Construction Code
LEED	Leadership in Energy and Environmental Design
NYSERDA	New York State Energy Research and Development Authority
SEQR	New York State Environmental Quality Review
Uniform Codes	New York State Fire Prevention and Building Codes

**Minutes:** Michael Burnetter opened the meeting at approximately 10 am. Members listed were present either at the NYSERDA boardrooms in Albany and NYC or by teleconference link. Mike asked the members present to introduce themselves.

Michael introduced and handed out procedures and guidelines for technical subcommittees. He also discussed the Draft Green Construction Code of New York that he sent to subcommittee members, with portions of the IgCC that were seen as addressing local zoning removed (as zoning is beyond the scope of DCEA and the CC) as well as other minor editing to indicate NYS.

Ron spoke briefly of the importance of Technical Subcommittees in advising the body charged with maintaining and updating NYS Uniform Codes and Energy Conservation Construction Codes, the New York State Fire Prevention and Building Code Council (CC). He highlighted the uniqueness of the green code technical subcommittee in that it is developing new codes rather than revising existing codes, in an area unfamiliar to the Code Council. There is a lot of interest in sustainable construction practices in many communities in NYS, some of which are considering developing their own rules. This could result in a patchwork of green regulations in NYS. This subcommittee can guide the Code Council, and NYS, in how to address sustainability in a way that provides a consistent baseline and that may allow local communities to mandate higher standards. The GCC can be split into three parts, energy provision, Uniform code provisions and provisions outside of our mandate of the Code, such as zoning. Ron stated, the green model code book probably will not make it with its binder intact

and that we would likely take it apart, look at the relevance, technical merit, and whether it is in the statutory authority of the Energy Codes and / or Uniform Codes.

The group discussed the potential of providing Green Code inserts to the Energy code and Uniform Codes rather than a separate green code. Parts of the Green Code could be inserted into the following code which is impacted: the energy code, the building code, existing building code, mechanical code, plumbing code, fire code and property maintenance code. The group decided to put off this decision until we have developed a scope of what provisions would be included in the green codes.

Tina and Marilyn mentioned some existing programs that could interact with the green codes, including NYSERDA programs and the Governor's greener, cleaner community's initiative, as well as the Green Buildings tax incentive NYSERDA is also administering.

Mike gave an overview of the *Procedures And Guidelines For Technical Subcommittees*, as provided by the Assistant Director of Code Development, and stated that the committee should focus on 2, 4 and 5: determine what provisions should be considered, justify proposed changes per the SAPA process, and coordinate changes with other codes. Mike requested that members familiarize themselves with the guidelines, including process for voting, submitting material and timelines. Our mandate is to ensure provisions we recommend are not less stringent than NYS laws and regulations. Our first filter is to address relevant codes, laws and regulations, NYS ones primarily. Our second filter may be guidelines and policy, which may includes some federal directives. Our recommendations should conform to the structure and function of Uniform Codes. For energy provisions, we need to look at 10-year payback. For other provisions, need to relate to public health and safety in the long and short term, or / and accessibility.

Ron stressed that the CEO's have a mandate to enforce the Energy and Uniform Codes. It was then discussed that we may wish to incorporate by reference relevant state or federal laws to provide the CEO with the knowledge and authority to enforce those laws.

Laurie arrived about this time. She provided a summary of the NYC Green Codes Task Force, including public comments and cost analysis of 111 proposals. NYC proposals included about 50 proposals related to energy and many related to zoning. This task force specifically identified where proposals could be inserted into existing laws. 33 proposals have been adopted, and 12 are currently in process.

We discussed the difference between baseline requirements and how to allow more stringent local provisions within the framework of current code procedures. Currently local communities can enact more restrictive local standards without special conditions for energy code provisions, but with special conditions for non-energy provisions. Energy provisions would affect NYC, while the City has its own Uniform and additional Energy Codes separate from those of the State. Those provisions would affect the rest of NYS, but not NYC. We discussed the pros and cons of having a separate path, such as that for ASHRAE 189.1 in the IgCC. This adds complexity and yet provides flexibility. It would be good to have some committee member consult with CalGreen and Rhode Island about how enforcement has worked when a lot of options are provided. We discussed the possibility of using an optional appendix – not encouraged or necessarily legally justifiable in NYS.

We also discussed the incentive process provided by the recently enacted law amending the real property law to provide exemption for LEED certified improvements.

We started review of Chapter 1 of the IgCC. Upon review, many committee members thought all or part of 105 should be removed. We determined that chapter 1 is largely outside of scope of the technical subcommittee. Mike will revise this chapter, with assistance from the committee and others, so that it is consistent with the other first chapters in the Energy Code and Uniform Codes, including the provision of how to get alternative material and methods approved.

We elected to start the process by reviewing IgCC chapters 4 thru the appendix B, with consideration of relevant chapter 3 options as we discuss each chapter. In reviewing Chapter 4, we determined some sections are covered by other state regulations. We will consider how to incorporate other state regulations at the next meetings.

It became apparent that the IgCC is based mainly on a commercial building application. One of the questions the subcommittee has to address is how best to address with residential construction especially considering the ICC-700 is being renewed in 2012. However, this is written as a standard rather than a code, in that it certifies levels rather than having a baseline minimum. It is much less costly to certify to ICC 700 levels than to LEED levels. It requires that a minimum is achieved in each of several subgroups to achieve a minimum certification. To achieve higher certification, every subgroup must achieve the certification level. This differs from LEED.

The committee generally agreed we should focus on moving forward with IgCC as our base document rather than discussing all the possible Green Codes and Standards out there. We could table the decision on whether or how to include residential until we have further familiarized ourselves with the code and the optional approaches for localities, although it may complicate how we look at different provisions.

We also discussed the possibility of using energy star for residential. John has experience with some Long Island communities that found it too prescription, without allowing different ways to meet a minimum performance especially when mandated by EPA to update when the Energy Star program is updated such as the new 3.0 revisions. Again, we discussed the need to both keep this simple and provide options to achieve a minimum baseline.

Some members requested that the agenda for the next meeting identify specific goals and units to be covered, and that we determine how we will go through the majority of the book.

#### **Action Items:**

There are no specific assignments to individuals on the subcommittee at this time. Based on discussion today, members are asked to complete the first 3 of the following, and the next steps as they believe.

1. Become familiar with the procedures and guidelines for technical subcommittees and proposed code timeline.
2. Review SEQR requirements and enforcement provisions for possible inclusion as reference standards. Subcommittee members can access material at <http://www.dec.ny.gov/permits/357.html>.
3. Familiarize yourself with the scope of ASHRAE 189.1 and the green code. See <http://www.iccsafe.org/iccforums/Pages/default.aspx?action=ViewTopics&fid=30> and
4. Members may wish to review guidelines, policies and regulations regarding floodplains, flood ways and other flood hazard areas. See the following websites: <http://www.dec.ny.gov/lands/24267.html> ; <http://www.fema.gov/national-flood-insurance-program/information-state-local-officials> ; <http://www.fema.gov/pdf/nfip/manual200805/cover.pdf> ; and [http://www.dos.ny.gov/communitieswaterfronts/publicationsTools/laws\\_regs.html](http://www.dos.ny.gov/communitieswaterfronts/publicationsTools/laws_regs.html)
5. Members may wish to review the NYC Green Codes task force proposals, public comments and costs. See information at <http://www.nyc.gov/html/gbee/html/codes/proposals.shtml> and Laurie may send further information / links.
6. **Members may wish to volunteer for specific areas of knowledge or interests found in the draft GCCC.**

## ASHRAE 189.1 Summary

(From ICC website at iccsafe.org)

PURPOSE: provide minimum requirements for siting, design, construction and operation plan of high-performance green buildings to:

- a. Balance environmental responsibility, resource efficiency, occupant comfort and well being, and community sensitivity, and
- b. Support development that meets the present needs without compromising those of the future.

SCOPE:

2.1 This standard provides minimum criteria that apply to new building, portions of buildings, their systems and new systems and equipment in existing buildings. It addresses site sustainability, water use, energy, indoor environmental quality (IEQ), and the buildings impact on the atmosphere, materials and resources.

2.2 The provisions of this standard do not apply to Single family houses, multi-family structures of three stories or fewer above grade, manufactured houses (mobile homes) and manufactured houses (modular); or to buildings that do not use electricity, fossil fuel, or water.

2.3 This standard shall not be used to circumvent any safety, health or environmental requirements.

DEFINITIONS – not included

4. ADMINISTRATION AND ENFORCEMENT *Building projects* shall comply with all mandatory provisions (x.3) and, where offered, either prescriptive option (x.4) or Performance option (x.5).

5. SITE SUSTAINABILITY -5.3 mandatory provisions. 5.3.1 site selection - unless mitigated, no development of previously undeveloped land less than 5' above 100-yr flood elevation; within 150' of *fish and wildlife habitat conservation area*; within 100' of wetland; 5.3.2 heat island effect. 5.3.3 light pollution. 5.4 Prescriptive options.

5.4.1 site development, amount left green. 5.4.2 Performance option

6. Water use efficiency – same set up

7. Energy efficiency Scope specifies requirements for energy efficiency for buildings and appliances, for *onsite renewable energy systems*, and for energy measuring.

7.3.1 Building projects shall comply with sections 5.4, 6.4, 7.4, 8.4, 9.4, 10.4 of ASHRAE 90.1

7.3.2 Onsite renewable energy – buildings shall provide for future installation of onsite renewable energy systems

7.3.3 Energy consumption mgmt: measurement device with remote communication for each energy supply.

8. Indoor air quality, 8.3 mandatory provisions (8.4 Prescriptive / 8.5 Performance)

8.3.1 Indoor air quality regulates Minimum ventilation rate, monitoring of Outdoor air delivery; requirements for Filtration and air cleaners; environmental tobacco smoke and building entrances

8.3.2 thermal environmental conditions for human occupancy.

8.3.3. acoustical control.

8.3.4. daylighting by toplighting

8.3.5 Isolation of building from pollution in soil

9. Buildings impact on atmosphere, materials and resources (construction waste mgmt, material extraction, refrigerants, recyclables,

10. Construction and plans for operation

11. Normative references:

Appendices – Normative and optional